

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARIA LILIA CISNEROS,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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SA-18-CV-01000-ESC

ORDER

This order concerns Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act [#16]. By her motion, Plaintiff asks the Court to grant her attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(a), as the "prevailing party" in the above-styled cause of action. The EAJA provides a mandatory attorney's fee award for a prevailing party that meets certain financial eligibility requirements. *Baker v. Bowen*, 839 F.2d 1075, 1079–80 (5th Cir. 1988). Once the plaintiff establishes these facts, the government must pay attorney's fees unless it is able to prove that its position was substantially justified or special circumstances make an award unjust. *Id.*

The record reflects that on September 16, 2019, the Court vacated the Commissioner's decision finding Plaintiff not disabled and remanded this case for further administrative proceedings [#15]. The Fifth Circuit has held that a party who obtains a remand in a social security appeal pursuant to the fourth sentence of § 405(g) qualifies as a prevailing party for purposes of fees under the EAJA. *Breaux v. U.S.D.H.H.S.*, 20 F.3d 1324, 1324 (5th Cir. 1994) (per curiam).

In support of the instant motion, Plaintiff's counsel has submitted an itemization of the hours he spent representing Plaintiff in this case before the Court. (Exs. [#17-2, #17-3, #17-4, #17-5, #17-6].) Plaintiff's counsel requests attorney's fees in the amount of \$5,345.67, paralegal fees in the amount of \$740, expenses in the amount of \$21.68, and costs in the amount of \$400.00. (*Id.*) The Commissioner does not oppose Plaintiff's motion and agrees that the total amount of fees and costs requested in this case is reasonable. (Resp. [#18].)

Having reviewed the motion and the record in this case, and in light of the lack of opposition on the part of the Commissioner, the Court finds that Plaintiff is entitled to an award of attorney's fees and costs under the EAJA as the prevailing party in this case, and the Court will grant Plaintiff's motion for an award of fees in the requested amount of \$6,085.67, expenses in the amount of \$21.68, and costs in the amount of \$400.00.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act [#16] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff is awarded attorney's fees in the amount of \$6,085.67, expenses in the amount of \$21.68, and costs in the amount of \$400.00 for **a total of award of \$6,507.35** made payable to Plaintiff and mailed to Plaintiff's counsel at his address on record.

IT IS SO ORDERED.

SIGNED this 6th day of December, 2019.


ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE